employee who causes the injury is declared to be free from liability therefor, his employer must also be free from liability. Southern R. Co. *v.* Harbin (Supreme Court of Georgia), 68 S. E. 1103, opinion by Beck, J., in which cases from other jurisdictions are cited and discussed at length.

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**Liability of Hotel Keepers Employing Infant Bell Boys to Convey Liquors to Guests.**—The Supreme Court of West Virginia in State *v.* Nichols, 69 S. E. 304, rendered a decision in October, 1910, which will cause considerable inconvenience to the proprietors of hotels who also run a licensed saloon in connection therewith. In that case the bell boy, who was a minor (which is usually the case with bell boys in hotels) went to the bar and purchased liquor from the bartender without saying that he bought the whisky for any person other than himself or telling the bar tender that he wanted it for a guest of the hotel. Nor did it appear that the bartender even inquired of him whether he was getting the whisky for himself, or for another person to whom the saloon keeper may have had a right to sell. Upon these uncontroverted facts the court held the proprietor liable for the acts of the bartender, applying the rule that if a licensed saloon keeper, or his agent, deliver intoxicating liquor to a minor and receive from him the money therefor under the belief, however induced, that the minor is buying as agent for another, whose identity is unknown and is not disclosed, it constitutes a sale to the minor. Of course the rule of law is well settled by the decisions and recognized by all the text-writers on the subject, that where a sale of intoxicating liquor is made to a minor for an undisclosed principal, it is a sale to the minor But the difficulty here is that it was expressly brought out in the evidence that the barkeeper was under the impression and belief that the bell boy was getting it for some guest of the hotel who was unknown to the bartender. The court added, however, "it does not follow that a lawful sale could be made to every guest. The guest might himself be an infant." It would certainly seem that in a transaction so common as this every presumption of innocence should attend the act of the saloon keeper, as he had every right to believe and did believe that this alleged unlawful sale was being made to a person competent under the law to buy. If, as the court says, the guest turned out to be an infant, then of course his liability would be undoubted, for he acts at his peril.

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**Exception to Independent Contractor Rule.**—Where the negligence, which causes a fire on the right of way of a logging company's private railroad from sparks from its engine, is the permitting of its right of way to become and remain in a foul condition, it is liable for damage from the fire spreading to adjoining land, though an independent contractor for doing the logging was operating the road, and

under his contract constructed the road; and this even if he located the right of way, as in doing so he was the agent of the company, it not being within the terms of his contract. The court in so holding applied the well recognized exception to the rule of nonliability of employer for the acts of the independent contractor, namely, where the contract requires an act to be performed on the premises, which will probably be injurious to third persons if reasonable care is omitted in the course of its performance. But liability of the employer in such case rests upon the view that he cannot be the author of plans and actions dangerous to the property of others without exercising due care to anticipate and prevent injurious consequences. Thomas *v.* Hammer Lumber Co. (N. C., Nov. 10, 1910), 69 S. E. 275. The opinion of the court in this case contains an able and exhaustive review of American and English decisions bearing on this exception to the independent contractor rule. Its correctness will be accepted by all, as the cases abound with expressions referring to railroads as "dangerous agencies operated by steam."